



California Fair Political Practices Commission

September 4, 1987

Stanley E. Remelmeyer
City Attorney
City of Torrance
3031 Torrance Blvd.
Torrance, CA 90503

Re: Your Request for Advice
Our File No. I-87-210

Dear Mr. Remelmeyer:

You have written seeking further advice following receipt of our previous letter to you on the same subject, No. I-87-146.

QUESTION

Do the owners of mineral rights for properties situated in the Torrance Town Lot Area of the City of Torrance constitute a significant segment of the public?

CONCLUSION

The owners of mineral rights for properties situated in the Torrance Town Lot Area do not constitute a significant segment of the public in Torrance.

FACTS

The facts stated in our previous response are incorporated herein by reference. By way of summary, Councilmember Dee Hardison and her spouse own a one-fourth interest in a parcel of property improved with a 6-unit apartment building. The property is approximately the same size as a standard residential lot in the area. The Hardisons' partnership holds the mineral rights for the parcel. The Kelt Oil Company is seeking to engage in secondary recovery of oil in the Torrance Town Lot Area, in which area the Hardison's apartment building is situated. If oil is produced through the secondary recovery process, royalties would be paid to the owners of the mineral rights for properties in the area.

You have now provided the following additional facts for our consideration:

There are approximately 53,000 lots in the City of Torrance and approximately 2500 of this total are within the Kelt Oil Company's secondary recovery area. There is a wide diversity of ownership. This area of southwest Torrance, called the Torrance Town Lot Area, was subdivided prior to the discovery of oil in Torrance in 1922. Consequently, many of the surface owners also own the mineral rights on their property and receive royalty payments as a result of existing oil and gas leases.

You do not have any way of determining the percentage of present owners of the 2500 lots who retain the mineral rights. The best estimate by the Kelt Oil Company is that at least half of the present owners retain mineral rights in the lands they own. There are, of course, another undetermined number of former owners or oil operators who have retained the oil and mineral rights when the land was sold to present owners. The mineral rights in this area are not owned and never have been owned by any single oil company.

In our subsequent telephone conversation of September 1, 1987, you advised that the mineral rights to the other 1250 or so parcels are variously owned, some in larger blocks of several acres; however, some of these blocks have been segmented through inheritances over a period of 50 years or more.

ANALYSIS

The Political Reform Act (the "Act")^{1/} prohibits a public official from making, participating in making, or using her official position to influence any decision in which she has a financial interest. (Section 87100.) A public official has a financial interest in a decision when the reasonably foreseeable effects of the decision on the official's economic interests will be both material and distinguishable from the effects upon the public generally. (Section 87103.) It is on the latter issue that you have asked us for further advice.

Regulation 18703 explains the "public generally" exception. That regulation provides:

A material financial effect of a governmental decision on an official's interests, as described in Government Code Section 87103, is distinguishable from its effect on the

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise noted. Commission regulations appear at 2 California Administrative Code Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Administrative Code.

public generally unless the decision will affect the official's interest in substantially the same manner as it will affect all members of the public or a significant segment of the public....

Thus, a public official need not disqualify herself if her interests will be affected in substantially the same manner as a significant segment of the general public. (See also, Owen Opinion, 2 FPPC Ops. 77 (No. 76-005, June 2, 1976); Ferraro Opinion, 4 FPPC Ops 62 (No. 78-009, Nov. 7, 1978); Overstreet Opinion, 6 FPPC Ops. 12 (No. 80-010, March 2, 1981); and Legan Opinion, 9 FPPC Ops. 1 (85-001, Aug. 20, 1985), copies enclosed.)

Consequently, if Ms. Hardison's real property interests will be affected in substantially the same manner as the real property interests of a significant segment of the public of Torrance, she would not need to disqualify herself on that basis.^{2/} (See, Owen Opinion, supra; and Legan Opinion, supra.)

In determining whether the segment of the public which will be similarly affected is "significant," the Commission has examined such factors as the number (both absolute and relative) of persons affected and their diversity. (See, Ferraro Opinion, supra.) You have stated that the number of persons holding mineral rights to parcels in the Torrance Town Lot Area is both numerous (in absolute terms) and diverse. It is our understanding that Ms. Hardison's partnership's royalties (assuming oil is produced) would be of approximately the same amount as those of others who hold such rights for residential-size lots.

Based upon those facts, it is our conclusion that, as to the royalties which may be expected, the effect upon Ms. Hardison will be substantially similar to the effect on a segment of the general public. However, we also conclude that the segment is too small to constitute a significant segment of the public. Only 1250 property owners, out of a total of 53,000 in Torrance, are similarly situated to Ms. Hardison. The remaining mineral rights owners who may be affected by the decision are not necessarily similarly situated. Some (including two small oil companies) own larger blocks of rights. Consequently, it is unclear exactly how many more persons are similarly situated, beyond the 1250. In any case, the number, in both absolute and

^{2/} You have not provided additional facts regarding the possible effects upon Ms. Hardison's business entity (the partnership). Consequently, this letter does not analyze those issues.

Stanley E. Remelmeyer
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relative terms, is not sufficient to constitute a significant segment within the meaning of Regulation 18703.^{3/} Consequently, if you conclude that the potential royalties are a basis for disqualification, disqualification would be required.

I trust that this letter adequately responds to your request for our advice. If you have questions regarding this letter, I may be reached at (916) 322-5901.

Sincerely,

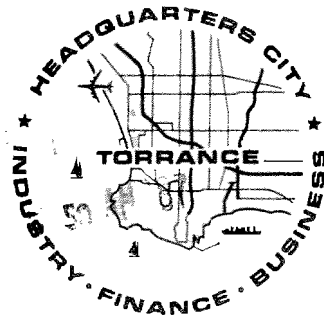
Diane M. Griffiths
General Counsel

By: Robert E. Leidigh
Counsel, Legal Division

REL:km
Enclosures

^{3/} If you are able to obtain further information to substantiate the actual number of similarly situated owners of mineral rights, please feel free to contact us again. However, based upon the currently available information, our conclusion is as stated.

STANLEY E. REMELMEYER
CITY ATTORNEY



CITY OF TORRANCE
3031 TORRANCE BOULEVARD, TORRANCE, CALIFORNIA
TELEPHONE (213) 328-5310 90503

July 23, 1987

Robert E. Leidigh
Counsel, Legal Division
California Fair Political Practices Commission
Suite 800
428 J Street
Sacramento, California 95804-0807

Re: Your File No. A-87-146

Dear Mr. Leidigh:

Thank you very much for your letter of advice dated July 6, 1987 on behalf of Torrance City Councilmember Dee Hardison.

It would seem that the key question is whether or not the owners of the property in the area constitute a significant segment of the general public. For this reason I have enclosed a street map of the City of Torrance showing the area covered by the Kelt Oil Company secondary recovery area. It is outlined in red on the southeast corner of the map.

There are approximately 53,000 lots in the City of Torrance and approximately 2500 of this total are within the Kelt Oil Company's secondary recovery area. There is a wide diversity of ownership. This area of southwest Torrance, called by the oil people the Torrance Town Lot Area, was subdivided prior to the discovery of oil in Torrance in 1922, so many of the surface owners also own the mineral rights on their property and receive royalty payments as a result of oil and gas leases.


I do not have any way of determining the percentage of present owners of the 2500 lots who retain the mineral rights. The best estimate by the Kelt Oil Company is that at least half of the present owners retain mineral rights in the lands they own. There are, of course, another undetermined number of former owners or oil operators who have retained the oil and mineral rights when the land was sold to present owners. The mineral rights in this area are not owned and never have been owned by any single oil company.

It would be my opinion that the group of owners who retain mineral rights would be sufficiently large in number and diverse

enough to constitute a significant number of the general public but I do not know if my opinion would reflect the views of the Commission and would be concurred in by you.

Please let me have your thoughts.

Very truly yours,


Stanley E. Remelmeyer
City Attorney

SER/av27

Enclosure

cc: Mrs. Dee Hardison



California Fair Political Practices Commission

August 4, 1987

Stanley E. Remelmeyer
City of Torrance
3031 Torrance Boulevard
Torrance, CA 90503

Re: 87-210

Dear Mr. Remelmeyer:

Your letter requesting advice under the Political Reform Act was received on July 27, 1987 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Robert Leidigh, an attorney in the Legal Division, directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Adm. Code Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

Diane M. Griffiths
General Counsel

DMG:jaj